

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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ANDRE R. LEVESQUE,

Plaintiff,

9:10-CV-0787

-v-

CLINTON COUNTY, also known as Clinton County  
Correctional Facility; JOHN DOE, Lieutenant; and  
JOHN DOE(S), Corrections Guards,

Defendants.  
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APPEARANCES:

OF COUNSEL:

ANDRE R. LEVESQUE  
Plaintiff Pro Se  
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GREGG T. JOHNSON, ESQ.  
APRIL J. LAWS, ESQ.  
MARY ELIZABETH KISSANE, ESQ.

DAVID N. HURD  
United States District Judge

**DECISION and ORDER**

Plaintiff brought this action pursuant to 42 U.S.C. § 1983 and the Americans with Disabilities Act. On December 28, 2012, the Honorable David E. Peebles, United States Magistrate Judge, advised, by Report-Recommendation, that defendant Clinton County's motion for judgment on the pleadings be granted in part and denied in part; all of plaintiff's

motions for injunctive relief be denied; plaintiff's motion for contempt and sanctions be denied; and plaintiff's motion for an order vacating his criminal conviction be denied. In addition, Judge Peebles granted Clinton County's motion for reconsideration; denied plaintiff's motions for leave to amend his complaint; and denied the remaining motions, all of which were filed by plaintiff. No objections to the Report-Recommendation were filed.

Based upon a careful review of the entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. 636(b)(1).

Therefore it is

ORDERED that

1. Defendant Clinton County's motion for judgment on the pleadings (Dkt. No. 48) is GRANTED in part and DENIED in part, as follows:

- (A) Plaintiff's Title II ADA claim survives;
- (B) Plaintiff's Title I ADA claim is DISMISSED with prejudice;
- (C) Plaintiff's municipal liability claim, pursuant to 42 U.S.C. § 1983 is DISMISSED without prejudice to plaintiff's right to file an amended complaint that corrects the pleading defects in that claim, as described in the Report-Recommendation, within thirty (30) days of the date of this Decision and Order; and
- (D) Plaintiff's punitive damage claim against defendant Clinton County is DISMISSED with prejudice;


2. Plaintiff's motions for injunctive relief (Dkt. Nos. 46, 56, 60, 67, 68 and 87) are DENIED;

3. Plaintiff's motion for contempt and sanctions (Dkt. No. 80) is DENIED;

4. Plaintiff's motion for an order vacating his criminal conviction (Dkt. No. 87) is DENIED; and

5. The Clerk shall serve a copy of this Decision and Order on plaintiff.

IT IS SO ORDERED.

  
United States District Judge

Dated: January 28, 2013  
Utica, New York.